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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eighteenth session

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Held at the Palais des Nations, Geneva,
on Monday, 11 May 1998, at 3 p.m.

Chairperson: Mr. ALSTON

CONTENTS

GENERAL DISCUSSION: "GLOBALIZATION AND ITS IMPACT ON THE ENJOYMENT OF ECONOMIC AND SOCIAL RIGHTS" (continued)

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The meeting was called to order at 3.10 p.m.

GENERAL DISCUSSION: "GLOBALIZATION AND ITS IMPACT ON THE ENJOYMENT OF ECONOMIC AND SOCIAL RIGHTS" (agenda item 7) (continued)

1. The CHAIRPERSON invited participants to share their views concerning the impact of globalization on the enjoyment of economic and social rights.

2. Mr. WOODFIELD (United Nations Conference on Trade and Development) said that globalization constituted a clash of ideas between global market efficiency and the role of the State in economic development and social justice. The market approach was winning, and, as a result, income inequality was increasing, while economic growth had become more fragile, volatile and vulnerable to external shocks. Governments were under pressure to liberalize their policies with regard to trade, investment, and finance, and to surrender control over interest and exchange rates, which were the fundamental countercyclical tools of economic management. Booms resulting from liberalization in developing countries had been followed by negative, shock-induced busts. And although upper-income groups had benefited from the booms, it was the lower-income groups which had most suffered from the busts.

3. Even in countries which had not experienced the boom/bust cycle, liberalization had resulted in a rise in income inequality and poverty. According to UNIDO, the wage difference between low-skilled workers and highly-educated workers had increased in nearly three fourths of all developing countries for which time-series data were available. That phenomenon was linked with a decrease in average real wages, limited employment growth, and improvements in labour productivity. Although the rise in inequality could partly be attributed to changes in the composition of the labour force as a result of increased training and education, it was much more closely related to changes in the demand for labour arising from the liberalization process. The upsurge of imports of labour-intensive merchandise from low-income countries such as China had, for example, depressed the wages of low-skilled workers in Latin American importing countries. Privatization and domestic private company takeovers had resulted in redundancies of low-skilled workers, depressing wages and increasing inequality. Furthermore, both the Mexican and Asian crises had severely affected fiscal and monetary policies in some Latin American countries, resulting in a decrease in social expenditures and jobs.

4. Ultimately, however, globalization could be made to work in favour of sustained economic growth and better income distribution in developing countries: that would, however, require Government-managed long-term strategic planning instead of liberalization.

5. The CHAIRPERSON said it was worth considering how the growing inequality in income distribution was related to respect for human rights: reports suggested a direct negative correlation between increasing income disparity and diminished respect for the principles of human rights, especially economic and social rights.

6. Mr. WOODFIELD (United Nations Conference on Trade and Development) said that UNCTAD had discussed that problem in its 1997 Trade and Development Report. It was tempting to conclude that greater income inequality meant a greater struggle to eliminate those contradictions; it had been found, however, that income inequality reduced the ability of Governments to manage growth and development. There was indubitably a strong link between rising income disparity and diminished respect for human rights. Greater attention to human rights abuses had partly offset that trend, because developing countries were sensitive to public opinion.

7. Mr. WENDLAND (World Intellectual Property Organization) said that WIPO was a specialized United Nations agency with 169 member States, whose purpose was the protection of intellectual property rights throughout the world; its work was therefore relevant to the protection of economic, social and cultural rights.

8. WIPO believed that the protection of intellectual property, which was, in essence, the protection of creativity and innovation, could play a beneficial role in economic, social and cultural development. As such, it supported and promoted the protection of the rights enshrined in article 15 of the Covenant. The protection of creativity and innovation could stimulate technology, entertainment, and knowledge-based industries, create job employment and job security, facilitate technology transfers, enhance the ability to export, and attract local and foreign investment. The protection of literary, artistic, musical and audio-visual works, including indigenous and traditional knowledge-formations and culture, could likewise promote economic and cultural development and cultural diversity.

9. The protection of intellectual property was also related to the right to work, the right to an adequate standard of living, the right to health and the right to education.

10. Globalization had meant that intellectual property matters had become intermingled with those of other spheres: as a result of the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), for instance, intellectual property rights had become an issue in multilateral trade negotiations. The matter of intellectual property could be said to have acquired a new importance in many areas of human endeavour.

11. The WIPO programme for 1998 and 1999 aimed at the exploration of new ways in which the intellectual property system could serve as a catalyst for the social and economic progress of the world's diverse peoples, with emphasis on the holders of traditional knowledge, the study of folklore protection, the role of intellectual property rights in biotechnology and the preservation of biological diversity.

12. In recognition of the fiftieth anniversary of the proclamation of the Universal Declaration of Human Rights, WIPO would hold a panel discussion later in the current year concerning the relation between intellectual property rights and economic, social and cultural rights; topics would include, inter alia, the right to culture, the protection of traditional knowledge, the right to health, and scientific and technological development.

13. The CHAIRPERSON said that, although it lacked the appropriate expertise in that field, the Committee often grappled with issues related to intellectual property rights; any advice that WIPO could offer would therefore always be welcome.

14. Ms. PONCINI (International Federation of University Women) said that women's right to equal economic opportunity was enshrined in the most essential international human rights instruments, which guaranteed to women the right to equal access to employment, sustainable wages, education, vocational training, and productive resources, including land, credit and technology, and protection from discrimination in all areas of work.

15. The NGO Working Group on Women's Employment and Economic Development, to which she belonged, had held an open meeting on women's economic rights in the context of globalization and world trade during the fifty-fourth session of the Commission on Human Rights. In the course of discussions, it had been recognized that trade liberalization was drawing more and more countries into a complex economic web; by the year 2000, around 90 per cent of the world's population would be living in countries strongly linked to the world market. Also by that year, women would account for 50 per cent of the working population.

16. The trend toward the globalization of trade and the development of a single world trading system would erode the economic and social rights of women workers. Governments would have less power to regulate social relationships between employers and workers. Although the role of women in export industries and services would expand, their conditions of employment would decline, bringing lower wages, longer hours, and fewer social safety nets.

17. Traditionally, the right to work had been based on a male conception of employment in the formal sector of the economy. Although patterns of work had changed, the male model still failed to recognize the many forms of work performed by women. While the International Labour Organization (ILO) now emphasized the promotion of women's equality rather than the protective rights of women, UNCTAD was just beginning to consider trade regulations from a gender perspective, while the World Trade Organization (WTO) neither considered women's issues nor assessed the impact of trade on men and women, except in the settlement of disputes. International organizations should seek to introduce gender-sensitive policies which would take into account women's paid and unpaid work in both the formal and informal sectors.

18. Finally, the globalization of social consensus should act as a counterforce to the globalization of trade, with a view to creating a fair, stable and ecologically sustainable world.

19. Mr. TEITELBAUM (American Association of Jurists) said that the Committee had not always taken a global view: it had failed, for instance, to incorporate into the draft optional protocol the proposal, put forward by the American Association of Jurists (AAJ) that victims of violations should be able to submit complaints against countries other than their own. The

Committee's General Comment No. 8, which suggested that the international community bore collective responsibility for economic, social, and cultural rights, did, however, constitute a step forward.

20. AAJ had circulated three written texts. The first, concerning the rights of women, analysed the impact of globalization on women, taking into consideration part-time work, domestic labour, and lower salaries, and the increased burden of family responsibilities caused by the deterioration of social services. The second, which concerned trade union rights, contended that globalization caused a rise in unemployment, a decline in trade union rights and worker bargaining power, and a deterioration of working conditions. The third maintained that, although article 15 established that all persons should benefit from scientific and technological progress, it was the multinational corporations which in fact did so, with the support of the TRIPS Agreement referred to earlier.

21. The right to health was likewise a matter of concern. The World Health Organization (WHO) had been working for many years to establish lists of essential medicines, so as to protect poor countries from wasting their resources on unnecessary medicines manufactured by the major multinational pharmaceutical companies. WHO had expressed its concern about the deleterious impact of the TRIPS Agreement on that policy.

22. Globalization had begun with the discovery and conquest of America, the colonial wars of Africa and Asia, and the subjection of independent Latin American countries to Great Britain and later the United States. Under the earlier name of imperialism, it had been characterized by a dominant industrial and financial hub, and a colonized periphery which supplied raw materials and cheap labour. Modern-day globalization, on the other hand, was largely attributable to dizzying technological and scientific progress in the spheres of production and communication. Humanity had indeed entered a new phase, in which benefits could be produced without physical human labour: that phase was characterized by world-scale instantaneous financial speculation, criminal management of the economy and finances, and such new elements as the drug traffic and the sexual exploitation of adults and children.

23. Paradoxically, although the production of goods and services had increased manyfold in recent decades, such problems as malnutrition, lack of health care and impoverished living conditions had worsened. Also paradoxically, the scientific and technological revolution was consigning human beings to more and more degrading and alienating conditions of life.

24. Globalization meant that economic power had outdone political power: real power no longer rested with the community of States but with an apparatus made up of the Group of 7, the International Monetary Fund (IMF), the World Bank, WTO, the United Nations Security Council, and the North Atlantic Treaty Organization (NATO), which governed the political, financial, economic and military aspects of the pyramidal world system. The draft Multilateral Agreement on Investment (MAI), temporarily tabled, was the most brazen of recent efforts to subject States to the designs of the multinational corporations.

25. The question that arose was how nations and peoples could win back their fundamental rights through democratic national and transnational institutions, and make decisions concerning their own destinies. International organizations, and in particular the United Nations system, should play a fundamental role in that recovery process. Although it was indeed impossible to oppose globalization, nations and peoples should strive, through their democratic institutions, to direct the course of their own lives.

26. Mr. RIEDEL said that article 15 related to an area of economic, social and cultural rights that was often neglected. When the Committee did deal with article 15, it usually took a more general approach to culture and paid little attention to intellectual property rights, despite the fact that they were integral to the Covenant and were mentioned in the Universal Declaration of Human Rights. That might be due to a lack of rapport with WIPO. He asked whether it would be possible for WIPO to help by providing questions for the Committee to ask Governments in the course of its monitoring of the implementation of human rights. The Committee needed to look beyond globalization and ask questions from a human rights standpoint, taking other concerns into account. Governments took the Committee more seriously when they realized it had the relevant background information.

27. Ms. BONOAN-DANDAN asked whether WIPO might be able to undertake to attend Committee meetings more often, in order to establish links with the Committee and contribute to its expertise. Intellectual property rights were directly relevant to the discussion of cultural rights under article 15 of the Covenant.

28. Computers and the Internet had changed the nature not just of communication and cultural activities but, in the last five years, of access to information. It was essential to understand how such access could violate cultures and traditions. By way of comparison she referred to the concept of "appropriation" in an artistic context, i.e., artists' freedom to use the images of other artists through the ages in their own art. Issues such as the impact of analogous practices on cultures and on basic family values, were highly topical and were integral to discussion of article 15.

29. Mr. ANTANOVICH said that a first step in combining human rights issues and programmes relating to intellectual property might be some synthesis of WIPO activities and the major concerns of the Committee in the form of an international mechanism to promote the protection of creative output.

30. He said he agreed with Mr. Teitelbaum that it was not possible to be for or against globalization, a process that had been going on for over 150 years. Nevertheless, he wondered whether it might not be possible to take human rights considerations into account in order to minimize its negative effects. If not, the world might be destined to face the unbearable spectacle of an increase in the suffering of the most vulnerable groups in society.

31. Mr. ADEKUOYE said that, as a result of the liberalization of trade and financial markets, the world had recently witnessed a growth in wealth, although there had been stagnation in Africa and repeated crises in south-east Asia. It was clearly hardly possible for African countries that had not participated in the benefits of globalization to fulfil their

obligations to guarantee economic, social and cultural rights. What international assistance and cooperation had been available, in line with article 2, paragraph 1 of the Covenant, to help those nations fulfil their obligations? The answer was none, or negligible amounts.

32. Globalization was meaningless even within States if it merely brought with it high concentrations of wealth and an increase in poverty and marginalization. It was equally meaningless between States if wealth and income were distributed unequally and there were disparities in the enjoyment of economic, social and cultural rights. Some believed that new instruments were needed in order to enable the fruits of globalization to be spread more evenly. He also wondered in what new way the international financial institutions such as IMF and the World Bank could help Africa's developing countries and agricultural communities to partake of the benefits of globalization.

33. Mr. MARCHAN ROMERO said that article 15 did not establish, but rather recognized, cultural rights, which pre-existed international instruments and were intimately related to human identity and dignity. There was no such thing as a cultural deficit: culture simply existed, and nearly all countries were heirs to a rich cultural legacy, with no need to produce or import it.

34. The traditional typology of activities had relegated culture to the lowest, tertiary sector of economic activity, and the discussion of article 15 in the context of globalization was opportune, since, as a result of globalization, States had become even less interested in the cultural sector. It could not be privatized, thus providing the State with revenue, and it did not attract foreign investment.

35. He said he regretted the absence of UNESCO at the meeting, since the specialized agencies had a shared responsibility to provide the Committee with the tools, concepts and indicators that would allow it to do the best possible job in monitoring cultural rights.

36. With regard to intellectual property, he said that the exploitation of artistic talent was a problem in countries such as his own. Such exploitation needed to be corrected through a better international interpretation of article 15.

37. Mr. PARY (Indigenous World Association), speaking on behalf of the indigenous peoples of the Andean countries, said that indigenous peoples were the victims of their own cultural riches. For example, traditional medicinal plants had been patented by pharmaceutical companies and earned those companies fabulous sums, while indigenous peoples were unable to obtain aspirin. Similarly, there was traffic in indigenous folklore, genes and blood.

38. The Working Group on Indigenous Populations had spent 15 years studying the ownership of the cultural and intellectual heritage, yet WIPO had taken no part in those discussions. WIPO was used principally by the great industrial powers and transnational corporations. Other countries had nothing to do with it. If the cultural heritage was to be enjoyed by all, WIPO should change its political orientation.

39. Mr. WENDLAND (World Intellectual Property Organization) said that the WIPO programme and budget for the 1998/99 biennium had been approved only at the end of March. His attendance at the meeting was thus one of the first steps taken by WIPO in exploring new activities. The issues were complex and it was important to proceed with caution, study together with others and learn as much as possible. WIPO undertook to work with the Committee in providing information and would in turn ask for the Committee's help in understanding economic, social and cultural rights.

40. In response to Mr. Marchan Romero, he said that folklore and traditional knowledge were already an important element of WIPO programmes, but that a new approach was needed.

41. In response to Mr. Pary's comments on the commercialization of indigenous genes and knowledge formations, he said that WIPO was involved in fact-finding missions and discussions with indigenous peoples in order to listen and learn rather than preach. Although WIPO had not previously been involved in the Working Group on Indigenous Populations, it was now participating more formally in such forums.

42. Mr. TEITELBAUM said that the TRIPS Agreement was not a dispute settlement procedure but an agreement that resolved questions relating to trademarks and patents to the advantage of transnational corporations. It had also violated international norms by authorizing the patenting of micro-organisms.

43. His position on globalization was not fatalistic but objective: the movement towards global interconnection was irreversible. The question was, who was directing it? Was it a minority acting for its own exclusive benefit or would the decision-making power revert to the representatives of the people?

44. Mr. MARKS (International Service for Human Rights) said that the processes and actors involved in globalization formed a continuum with, at one end, those like the IMF, which were closest to trade and financial markets and at the other, activists in non-governmental, intergovernmental and government organizations, who were more involved in protecting human beings In between came organizations such as the specialized agencies, which were more concerned with the negative economic, social and cultural impacts of globalization. UNDP lay somewhere between the specialized agencies and the international financial institutions. It sought to reconcile the social policy needs of governments in resisting the negative impacts of globalization with the neo-liberal pressure exerted on it by its major donors.

45. The High Commissioner for Human Rights and the Administrator of UNDP had recently agreed on ways in which UNDP could interact with the Committee. A new policy statement on integrating human rights with sustainable human development sought to give UNDP a central role among the development institutions in the promotion and implementation of human rights, and four specific steps had been taken to make that possible: first, a line directive had been issued instructing all UNDP staff to participate in the process of implementing the new procedure; second, the High Commissioner for Human Rights and the UNDP Administrator had concluded a memorandum of understanding; third,

a Note had been issued on the implementation of that Memorandum of Understanding; lastly, a person had been appointed to take charge of human rights policy.

46. The new channel of communication between UNDP and the Committee should naturally operate in both directions. There were various ways in which UNDP could make better use in its work of the concepts, analyses and decisions of the Committee and make a direct contribution to the Committee's work. One would be to integrate an understanding of the Covenant into its work, using the Covenant obligations, general comments and concluding observations to develop a country cooperation framework, which would be used at its planning stage with Governments.

47. UNDP would also have to develop an understanding of the rights relating to sustainable human development. In that connection the Committee might usefully bear in mind that in addition to country programming and the preparation of an annual human development report, UNDP had an Office of Development Studies where a great deal of work was done on such issues as the impact of globalization.

48. UNDP would have to modify its resource allocation decisions to take into account obligations under the Covenant. Article 22, for example, provided possibilities for exploring with Governments ways in which resource allocation decisions might be made, with the Committee's assistance, to enable them to respond better to their obligations under the Covenant.

49. With regard to the role of UNDP in the work of the Committee, it would be hoped that in implementing its new policy, UNDP would respond to the request contained in the Memorandum of Understanding and assist the Committee in developing indicators and benchmarks for the assessment of country reports. UNDP might, for instance, submit country profiles to the Committee to help it with its assessments.

50. In addition, it had been suggested within UNDP that, given the new policy under the Memorandum of Understanding and other documents, it would be logical for UNDP to play a role, including the allocation of staff and financial resources to the Committee, similar to that which UNICEF played in respect of the Convention on the Rights of the Child. That idea had generated a positive response at the workshop but had not yet been fully endorsed.

51. Finally, the report of the Intergovernmental Group of Experts on the Right to Development (E/CN.4/AC/45) contained a number of suggestions directly related to the way in which UNDP might work with the Committee in the course of its country programming efforts. The immediate challenge was for staff not accustomed to raising human rights issues with member States to learn how to work with Governments on the constructive interpretation of their obligations in ways which would influence UNDP resource allocation.

52. The CHAIRPERSON welcomed the firm undertaking of assistance. Although no official offers had been made, it was to be hoped that cooperation between the Committee and UNDP would develop in the manner suggested.

53. Mr. CHRISPEELS (UNCTAD) said that human rights was not a new subject for UNCTAD. As long ago as 1982 the then Secretary-General had addressed the Trade and Development Board on the matter of structural adjustment measures and their implications for people in Third World countries.

54. UNCTAD was in no doubt that it could contribute to the work of the human rights community. It had already been involved in research on such subjects as extreme poverty and income distribution, during which it had become clear that the human rights community had no knowledge of UNCTAD documents. In future he would ensure that the Committee and other personalities in the human rights community received all UNCTAD's flagship documents.

55. The Secretary-General of UNCTAD had recently convened an informal one-day meeting of a group of 15 experts to discuss the right to development, at which the experts had first reviewed developments over the past 15 years and then held a two-and-half-hour brainstorming session on ways in which UNCTAD could contribute in the field of the right to development.

56. The Secretary-General had also arranged for the entire staff of UNCTAD to participate in a round-table discussion later in the month on the question of development and human rights, which would be addressed by the High Commissioner for Human Rights, the Secretary-General of UNCTAD and the Chairman of the Committee on Economic, Social and Cultural Rights. The purpose was to brief the staff on the discussions taking place on human rights issues in the United Nations and make them aware that human rights was becoming a permanent feature of UNCTAD's work. As a result of the two meetings, the secretariat of UNCTAD would undoubtedly draw up a policy paper on the areas in which it felt it had a contribution to make. The Secretary-General had already indicated his readiness to cooperate with the Committee in the future.

57. The CHAIRPERSON observed that the Committee should be greatly heartened by the significant development in terms of support and cooperation which might be forthcoming from various United Nations agencies. It would be incumbent on the Committee itself to take some initiative and it was important to start considering, before the end of the session, which members might begin to undertake a liaison responsibility with some of the key agencies.

58. Mr. SIBBEL (ILO) said that the ILO had taken a human rights based approach to its work for many years. Its approach to globalization was to ensure that the resulting economic process was accompanied by social progress, and, therefore, to see how human rights could be used as a vehicle to minimize the cost of globalization and maximize its benefits. A number of core fundamental workers' rights had already been identified, including freedom of association and collective bargaining, the prohibition of forced labour, equal treatment, non-discrimination and minimum age, all of which had been endorsed by the World Summit for Social Development and the Singapore Ministerial Declaration of the WTO. In order to enhance the universal application of those rights, the ILO had launched a ratification campaign in 1995, which had resulted in 18 new ratifications.

59. The representative of the IMF had stated that Indonesia and the Republic of Korea had indicated their intention to ratify certain conventions.

An interesting side-effect of the Asian crisis was the new willingness shown by such Governments to consider ratifying and implementing human rights instruments, largely because of pressure but also because of the realization that human rights were vehicles which could balance the "capital versus people" problem.

60. Another question under discussion in the ILO was whether, by virtue of accepting the Constitution, objectives and principles of ILO, member States were bound by a set of minimum standards in respect of the rights involved. Discussions were continuing in the Governing Body and a declaration to that effect would be discussed at the International Labour Conference in June 1998.

61. The Governing Body's working party on the social dimensions of the liberalization of international trade had commissioned a series of case studies to analyse the social impact of globalization and trade. The studies, once completed, would be submitted to the Governing Body for appropriate follow-up.

62. It had been argued that respect for poor standards adversely affected economic efficiency and that their application should therefore be opposed. It had also been argued that such opposition would constitute a form of protectionism or an attempt to deny countries the fruits of their comparative advantage. An OECD report on Trade, Employment and Labour Standards: a study of core workers' rights and international trade, issued in 1996, had suggested, to the contrary, that the proper implementation of poor labour standards could support economic development and that the elimination of discrimination and forced labour from the labour market led to a better allocation of labour resources.

63. Discussions on globalization and labour standards were often based on economic arguments. However, economic efficiency arguments were irrelevant in the field of human rights, because of the inalienable nature of such rights derived from the inherent dignity and equality of all human beings.

64. Ms. GOVIN (International Service for Human Rights) said that the question of globalization, income distribution and human rights had been introduced at a seminar organized jointly by the International Service and the Non-Governmental Liaison Service (NGLS) in parallel with the Commission on Human Rights at its session in March 1998. Three points in particular had been raised at the seminar: the distribution of income and economic and social rights, the crucial role of civil society, and a proposal by the Special Rapporteur to the Sub-Commission on Prevention of Discrimination and Protection of Minorities to create a Social Forum.

65. Income distribution at the national and international levels was a key factor linking globalization and the enjoyment of human rights. The Special Rapporteur had noted in his report (E/CN.4/Sub.2/1997/9) that whereas the economy had developed rapidly over the past 10 years, income distribution had deteriorated. He had also noted that income distribution was an indicator within a given society of how not only wealth but also power was distributed. Globalization was a phenomenon which occurred in countries on the periphery of

world capitalism as well as in the centres. In the former, a perverse form of globalization arose, which ran counter to economic, social and cultural rights, leading to extreme poverty, social exclusion and unemployment.

66. The role and importance of civil society could not be overemphasized because, as the Special Rapporteur had also noted, globalization was a social and cultural phenomenon which brought together different local and national communities and gave populations a new system of ethics and hope; that was what he had referred to as "bottom up" globalization or the globalization of standards. In that connection he had stated that local communities, as well being subject to the impacts of international trade, were also affected by the new conceptions of justice and equity that were being intercommunicated throughout the world. International civil society needed a global, coordinated strategy, to work hand in hand with the international and intergovernmental organizations to promote respect for and realization of all human rights, including the right to development.

67. The proposal of the Special Rapporteur to establish a Social Forum appeared to be on the right lines, provided that it did not duplicate work done elsewhere and that it had the agreement and participation of all bodies concerned, including the Committee on Economic, Social and Cultural Rights. The Special Rapporteur had envisaged that the Social Forum would be established within the Sub-Commission; it would be held on three special days, with the active participation of representatives of Governments, United Nations specialized agencies, international organizations and NGOs. It would have as its objective the exchange of information, follow-up on the relationship between income distribution and human rights as well as on situations of poverty, proposal of standards of a juridical nature and follow-up to the World Summit for Social Development in Copenhagen and the Earth Summit in Rio de Janeiro.

68. That proposal should be discussed by the Committee, in view of the fact that an updated report, including the proposal for a Social Forum, was due to be discussed by the Sub-Commission at its session in August 1998, and the Committee's views would be an essential contribution.

69. Mr. JENKINS (United Nations Non-Governmental Liaison Service) said that the NGLS had been motivated to participate in the discussions by the need to bridge the gulf between economists and human rights specialists and, therefore, the need to help development and human rights NGOs better to integrate each other's approaches, insights and political leverage.

70. The current context of globalization reinforced the need for a more holistic, interdisciplinary approach. The purpose of the seminar organized by the NGLS and the International Service for Human Rights had been to compare two reports on the same subject, dealt with from different angles: the report by the Special Rapporteur to the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the relationship between the enjoyment of human rights, in particular economic, social and cultural rights, and income distribution (E/CN.4/Sub.2/1997/9), and the 1997 Trade and Development Report by UNCTAD. There had been a remarkable degree of similarity and complementarity between the two reports in terms of their broad analytical conclusions. Both reports associated globalization with mounting

inequalities and income polarization between and within nations, and while the Special Rapporteur had described such trends as "socially explosive", UNCTAD had warned of a possible political backlash against globalization, which was just as likely to come from the North as from the South.

71. Unlike a number of other economic interpretations, UNCTAD's analysis suggested that those negative features of the global economy were not likely to be temporary adjustments to globalization, but might represent more persistent patterns if no countermeasures were taken. Two major related factors were involved: an increase in the proportion of total income being channelled into short-term high-yielding speculative ventures, which bore no relation to the real economy, and the significant shift in the relative bargaining power between labour and capital.

72. One of the key questions raised in the seminar had therefore been the battle between national and international responsibilities, whether the capacity of national Governments to fulfil their economic and social rights obligations was hampered by high capital mobility and whether they were trapped in a dilemma that could only be resolved through concerted international action, or were hiding behind a mythical threat of globalization to evade their responsibilities. Both propositions had strong elements of truth and part of the deadlock in the debate had been the battle between those who had placed all the burden on individual national Governments and those who had put the blame on the international system and global institutions.

73. At the national level, UNCTAD recommended developing "a new social contract" that would give the State a very active role in ensuring that profits were rapidly reinvested in real productive capacities and jobs rather than in speculation and luxury consumption.

74. In an era of globalization, much work was needed to analyse and codify international collective human rights and obligations. The NGLS was firmly committed to facilitating dialogue between NGOs which had traditionally focussed on global economic questions and those who had focused on human rights. Very few of the arguments of development NGOs tended to be framed in terms of human rights instruments. Particularly in respect of negotiations such as those currently underway in the OECD on a Multilateral Agreement on Investment (MAI), arguments tended to be only defensively concerned about the increasing rights accruing to multinational corporations and socially unaccountable global institutions, rather than proactively advocating the primacy of human rights law and corresponding obligations. Human rights NGOs could contribute a good deal to that effort if they were to join forces with their development and environment counterparts.

75. UNCTAD's "political backlash against globalization" was in many respects already a reality. Part of it was diametrically opposed to human rights, as shown by the rise of extremist political factions in the north as well as in the south that sought to channel fears of globalization into neo-fascist and xenophobic agendas. Another part of it was manifest in an embryonic, global popular movement against neoliberal policies and institutions, known as the People's Global Action (PGA), a radical and confrontational platform, which

was planning a series of decentralized protest actions around the world during the ministerial meeting of the WTO later in the month as the start to a much longer international campaign.

76. That new social phenomenon reinforced the need for a forum in which the relationship between globalization and human rights could be discussed and institutionalized. The NGLS therefore joined the International Service for Human Rights in recommending that the Committee give consideration to the proposal by the Special Rapporteur to set up a Social Forum, which would bring economists and human rights specialists together and, if carefully designed, would complement rather than duplicate the very important work of the Committee.

77. Mr. ALBALA (Association Droit-Solidarité) said that the draft investment agreements under discussion at the OECD and in the World Trade Organization were incompatible with certain international undertakings by States, in particular article 2, article 1 (2) and article 25 of the Covenant, themselves similar to and inspired by the 1974 Charter of the Economic Rights and Duties of States. The dangers they constituted to the principles of the Covenant and the Charter included some alarming juridical innovations. The Multilateral Agreement on Investment (MAI), for example, contained two provisions, the "status quo" rule and the "roll-back" rule, that threatened both State sovereignty and the rights of peoples. The Agreement, which was intended to be world-wide, contained machinery for settling disputes between States, but there was no provision whereby a State could complain against an investor. Its general thrust constituted a dangerous attack on systems of economic development that were based on public service and the protection of the most vulnerable groups.

78. It was the least-developed countries that had the most to fear from a system of unbridled competition. Globalization might be inevitable, but every effort should be made to make it acceptable. Even if the MAI was not precisely contrary to the Covenant, it should be recognized as a danger to it. He urged the Committee to address a request to the Economic and Social Council for an in-depth study of the compatibility of the provisions of the proposed agreement with the relevant provisions of the Covenant. If, as he hoped, the Committee were to do so, it could count on the technical help of his organization.

79. Mr. KOTHARI (Habitat International Coalition) said that, in the last two years, the attempt to create a world in which the flow of capital and investment would be unhindered had taken on alarming proportions. The current trend would make economic, social and cultural rights even more marginal than at present. Nothing typified more its destructive nature than the draft Multilateral Agreement on Investment now under discussion for possible adoption by the OECD. Until 1997, when it had been leaked, the draft had been negotiated largely in secret and had enjoyed the aggressive support of the International Chamber of Commerce, the United States Council on International Business and other corporate-backed groups. In the course of the past year, however, environmental, social justice, labour and development groups had joined in rallying against it as typifying the new trend of corporate globalization that routinely brushed aside the existing obligations of nations under international law.

80. The principles on which the MAI was based as well as its detailed provisions ran counter to the basic premise and overarching principles of the international human rights regime. Essentially, it sought to codify the free-trade agenda, favouring the rights of transnational investors and corporations over the rights of workers, consumers, communities and the environment. Clearly the human rights to development and self-determination could be denied by the granting of more freedom and more rights without responsibility to foreign investors.

81. Moreover the human rights to a sustainable livelihood and a safe environment had repeatedly been jeopardized by economic priorities driven by trade and investment agreements. Conditions that favoured foreign investors could eliminate the possibility of accountability on the part of multinational enterprises, since the agreements contained no binding or enforceable obligations in regard to human rights. Corporate conduct was left, at best, to voluntary codes. The MAI took that notion even further, by granting corporations distinctive rights and protections. The independent system for the settlement of disputes between investors and States foreclosed the rights of individuals, civil society groups, communities and even local authorities to effective legal remedies.

82. Action that the Committee might take to counter those trends included calling for the establishment of committees on trade, investment and human rights within the World Trade Organization, the OECD and the International Monetary Fund. It could also intensify its efforts on behalf of the adoption of the Optional Protocol and work with States, specifically the States parties to the human rights treaties, to raise the issue of human rights obligations and ensure that human rights impact assessments were conducted in all future decisions and agreements.

83. The latest news with regard to the MAI was good. For the time being, owing to pressure from a coalition of 565 NGOs from 70 countries, its consideration had been postponed. Non-governmental organizations concerned with human rights had come together to ensure that human rights principles and entitlements were included in the debate against the MAI and WTO agreements. The organizations he represented would participate in a meeting of NGOs that would precede the inter-Ministerial meeting to be held shortly at WTO. They would keep the Committee informed, as the Covenant on Economic, Social and Cultural Rights would be central to their work.

84. Mr. OZDENI (Centre Europe - Tiers Monde) said that his organization viewed globalization as an ideology that was based on a power structure keyed increasingly to the benefit of great corporations, international financial institutions and a few major political powers. Under its influence, the gap between the countries at the "centre" and those at the "periphery" had never been so wide. The consequences of the globalization of trade were disastrous, ranging from mass malnutrition, pollution and disease, through mass unemployment, armed conflict and the forced displacement of population, to generalized corruption.

85. To understand the reasons for those deplorable effects, it was necessary to analyse the current neo-liberal economic system. Its two key instruments were the Bretton Woods Institutions and the World Trade Organization. The

destructive policy which those bodies imposed throughout the world was not limited to the economic field but touched all spheres of life. At the time of their establishment the aim of the World Bank and the International Monetary Fund had been to promote economic and social progress through increased productivity. In reality, dominated as they were by a few rich countries through the quota system, both institutions had served only the interests of international financial circles.

86. The two examples of developing country debt and structural adjustment programmes could serve as an illustration. The debt crisis of the 1980s had led to a vast increase in the influence of the World Bank and the IMF on developing country economies. Without IMF approval, they could obtain neither government nor private loans. To gain such approval, they had to submit to the structural adjustment programmes imposed by the IMF. The consequences of those programmes of budgetary austerity and privatization of public enterprises were the deterioration of public services, in health and education in particular, increased unemployment and general impoverishment. The programmes also pressed the countries concerned to increase their exports. To do so, however, the countries concerned often had to compete with each other, and their export earnings all went on the repayment of debt.

87. At the political level, the implementation of structural adjustment programmes led regularly to popular uprisings that were at once put down, one of the conditions for IMF and World Bank loans being political stability. Since 1990, the World Bank had preached "good governance", but in reality its policies were aimed at diminishing the role of the State and suppressing national projects, often with the assistance of a corrupt ruling class. The constant pressure on debtor governments for more growth and competition led inevitably to the reduction of social benefits as being too costly. Through its unequalled power to intervene in world affairs and the internal affairs of States, the World Bank dictated the conditions of development but it was accountable only to itself.

88. The second key instrument in the globalization of trade was the World Trade Organization. The agreements which had brought it about had been negotiated in a small committee run by transnational corporations and subject to no political or democratic control. The liberalization of the trade in services had had serious consequences. The aim of internationalizing and reducing costs in such sectors as telecommunications and financial services had led to the privatization of national services on a world scale. The effects of the liberalization of financial services had been equally dramatic, in the form of increased tax evasion and immunity for traffickers of all kinds.

89. The negotiations on trade-related intellectual property rights had allowed the industrialized countries to establish new international rules to protect the monopoly profits of transnational corporations, while at the same time preventing access by the developing countries to knowledge. In the developing countries, more than 80 per cent of patents were held by foreigners, chiefly transnational companies. The vast biological diversity of the South was thus becoming the intellectual property of private interests. In short, the WTO was violating the fundamental principles of democratic control and sustainable development.

90. In conclusion, his organization believed that globalization was an obstacle to the realization of economic, social and cultural rights and was in direct contradiction to articles 1 and 2 of the Covenant. If a State undertook to guarantee those rights to its citizens, it risked being brought before the governing international institutions. Those institutions defended above all the interests of the new masters of the world, in other words, the transnational corporations, whereas the Covenant had been drawn up to defend the rights of citizens. Accordingly, his organization urged the Committee to undertake an in-depth study of the role of the international financial institutions and to recommend an examination by the Economic and Social Council of the compatibility with the Covenant of the Multilateral Agreement on Investment.

91. Mr. PARY (Indigenous World Association) said that, as many of the previous speakers had indicated, the enjoyment of economic, social and cultural rights by the people of the developing countries and their right to the enjoyment of their national resources was closely linked with the activities of transnational corporations. Globalization had led to a chaotic situation, in which capital, free to move uncontrolled, usurped the influence of governments over labour, the environment and the enjoyment of human rights. More than ever before, the lack was felt of any international framework governing the activities of transnational corporations and their direct investment in the Third World. Host countries had lost all capacity to negotiate and were unable to exert any jurisdiction over the foreign branches set up in their territories, owing to the absence from their legislation of any reference to the concept of corporate nationality.

92. It was vital, therefore, first to define the nationality of transnational corporations, and then to set clear and specific rules regarding responsibility, for environmental pollution, social exclusion and extreme poverty, all of which constituted serious violations of economic and social rights. The failure to elaborate a code of conduct for transnational corporations had been the result of pressure by economic and financial circles and, in particular, of the impact of the guidelines regarding the treatment of foreign capital investment forced upon Governments by the World Bank and the IMF. Such political pressure and economic blackmail was contrary to the basic principles laid down both in international instruments and in many resolutions of the United Nations in favour of the adoption of an international legal framework, based on the Charter and General Assembly resolution 1803 (XVII) on permanent sovereignty over natural resources.

93. His organization urged the Committee, therefore, to give priority to the establishment of a working group on the negative effects of the activities of transnational corporations on the enjoyment of economic, social and cultural rights, on the right to development and on political and civil rights. The working group would examine and define the ownership structure of transnational corporations and their global strategies for the concentration of capital and markets at the world level. It would also investigate the transfer of capital from the poor to the rich countries in the form of interest and debt servicing, as well as illegal exchange operations and speculations and the abuse of the financial mechanisms of the World Bank and IMF and of the international agencies for development assistance. It would also examine interference by the transnational corporations in the political

life of States, through corruption and the suborning of governments, parliamentary representatives and the army. Lastly, the working group should prepare reliable data on direct foreign investment in the developing countries, on the pillaging of resources vital to national sovereignty, and on the responsibility of the transnational corporations for the contamination and rehabilitation of the environment and the laundering of drug money throughout the world. He trusted that his recommendations would be reflected in the Committee's report to the Economic and Social Council.

94. The CHAIRPERSON thanked all the participants for their valuable contributions to the day of discussion. Many of the issues that had been raised seemed far removed from the Committee's concerns and not easy for it to come to grips with. He had therefore requested that the office of the High Commissioner should give the Committee a private briefing at its next meeting on the working group set up at the United Nations on the right to development.

The meeting rose at 6.10 p.m.